

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff Los Angeles County, Califor
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Name, Title, Address, and Telephone Number
James K. Moore, Esq.
2065 Main Street, Suite 102
Wailuku, HI 96793
808 244 7444

DEFENDANTS

County of Residence of First Listed Defendant New Castle County, Delawa
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C.A. 1332(a)(1)

Brief description of cause:
Negligence, premises liability

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
500,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

JAMES KRUEGER, ESQ. 492
2065 Main Street
Suite 102
Wailuku, Maui, Hawaii 96793
Tel: 244-7444 (Telephone)
244-4177 (Facsimile)
Email: mauswim@maulaw.com

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII'
CIVIL DIVISION

PHILLIP WESKALNIES,)	COMPLAINT FOR A CIVIL
)	CASE
Plaintiff,)	
)	CASE NUMBER: _____
v.)	
)	
GWR WAILEA PROPERTY LLC dba)	
GRAND WAILEA, WALDORF-ASTORIA)	
MANAGEMENT LLC, HILTON HAWAII)	
CORPORATION, HILTON MANAGEMENT)	
LLC, PARK HOTELS & RESORTS,)	
INC., JOHN DOES 1-5,)	
JOHN DOE CORPORATIONS)	
1-5, JOHN DOE PARTNERSHIPS)	
1-5, ROE NON-PROFIT)	
CORPORATIONS 1-5 and)	
ROE GOVERNMENTAL AGENCIES 1-5,)	
)	
Defendants.)	
_____)	

COMPLAINT

1. At all times relevant herein, plaintiff
PHILLIP WESKALNIES was a citizen and resident of the State
of California.

2. At all times relevant herein, defendant GWR WAILEA PROPERTY LLC, dba GRAND WAILEA, was a limited liability corporation, incorporated under the law of the State of Delaware, having its principal place of business in the County of Maui, State of Hawaii and doing business therein.

3. At all times relevant herein, defendant Waldorf-Astoria Management LLC, was a limited liability corporation, incorporated under the law of the State of Delaware, having its principal place of business in the County of Maui, State of Hawaii and doing business therein.

4. At all times relevant herein, defendant HILTON HAWAII CORPORATION was incorporated under the law of the State of Delaware, having its principal place of business in the County of Maui, State of Hawaii and doing business therein.

5. At all times relevant herein, defendant HILTON MANAGEMENT LLC was a limited liability corporation, incorporated under the law of the State of Delaware, having its principal place of business in the County of Maui, State of Hawaii and doing business therein.

6. At all times relevant herein, defendant PARK HOTELS & RESORTS, INC., was incorporated under the law of the State of Delaware, having its principal place of

business in the County of Maui, State of Hawaii and doing business therein.

7. None of the abovenamed defendants are citizens of the State of California, incorporated under the law of the State of California, or has their principal place of business within the State of California.

8. No unidentified defendant was a citizen or resident of the State of California or incorporated under the law of California or had its principal place of business thereat.

9. There is complete diversity of citizenship between plaintiff and defendants pursuant to 28 U.S.C. § 1332(a)(1).

10. At all times relevant herein, defendants, and/or any of them, owned and/or operated and maintained a first class resort hotel property, known as "Grand Wailea", situate at 3850 Wailea Alanui Drive, Kihei, Maui, Hawaii 96753 (hereinafter "the premises")

11. Excluding the unidentified defendants described in Paragraph 8 above, plaintiff has diligently and in good faith attempted to ascertain names, identities, and possible defendants whose identities are presently unknown to plaintiff. Despite the foregoing, the identities of other defendants, excluding those described in paragraph 8 above, whose conduct may have been a legal

cause of plaintiff's injuries and damages, remain unknown to plaintiff.

12. Plaintiff alleges on information and belief that, directly or indirectly, the conduct of other defendants, other than those described in paragraph 8 above, presently unknown to plaintiff, was or may have been a legal cause of the occurrence complained of and/or the injury, damage, or loss thereby sustained by plaintiff as a result of which all defendants, identified and unidentified, may be legally, jointly and severally liable to plaintiff for injuries and losses sustained, inasmuch as the conduct of each defendant may have coincided with and/or concurred with that of each and every other defendant named and unnamed.

13. All events described herein occurred in the County of Maui, State of Hawaii, so that this Court is the appropriate venue for, and has jurisdiction over, this proceeding and the parties herein.

14. On October 5, 2015, plaintiff was lawfully upon the premises of defendants, and/or any of them, whereat he was caused to fall.

15. At all times relevant herein, defendant, and/or any of them, created, caused, allowed to exist, owned, leased, operated, cleaned, controlled, managed, and/or supervised, failed to inspect and/or maintain its

premises, and/or warn about and/or failed to eliminate an unreasonably dangerous condition on the premises, which condition was foreseeably hazardous to patrons of defendant, and/or any of them, including plaintiff, which condition created an unreasonable risk of harm to her, and was a cause of plaintiff's fall at the premises.

16. The fall suffered by plaintiff resulted from, among other things, defendants', and or any of them, failure to provide a non-slippery walking surface on its premises leading from the Molokini Wing of the premises to go to an area on the premises where defendants, or any of them, would be holding a luau.

17. The surface of the aforesaid walkway was wet, slippery, and dangerous at the time of plaintiff's fall, there having been rain in the area at an earlier time during the day of his fall.

18. Defendant failed to warn its guests, including plaintiff, of any hazardous condition of the aforesaid walkway prior to plaintiff's fall.

19. Defendant failed to provide any kind of anti-slip surface, carpet, rug or mat, which would have prevented plaintiff from slipping and/or falling as a result of a dangerous condition of the walkway.

20. Defendants failed to warn its guests, including plaintiff, of any hazardous condition of the aforesaid walkway prior to plaintiff's fall.

21. At all times relevant herein, the condition of the aforesaid walkway was unreasonably dangerous.

22. Defendants', and/or any of them, allowance of, or permission of the existence of, the aforesaid dangerous walkway condition, was unreasonably careless.

23. On October 5, 2015, as a legal result of the foregoing, plaintiff was caused to fall.

24. Negligence of defendants, and/or that of any of them, mentioned above, was a cause of plaintiff's fall.

25. As a legal result of the foregoing, plaintiff has suffered severe and permanent physical and/or mental injuries, suffering, emotional distress, diminution of wage and/or impairment of earning capacity, enjoyment of life's activities, expenses incurred for the treatment of injuries suffered, together with other damages as shall be proved at time of trial, which is in excess of \$75,000.00, exclusive of interest and costs.

26. The amount of damages suffered by plaintiff, \$500,000.00, exclusive of interest and costs, is sufficient to vest this Court with jurisdiction pursuant to 28 U.S.C. § 1332(a).

27. Plaintiff engaged in no negligent conduct

which was a legal cause of his injuries.

WHEREFORE, upon a hearing hereof, plaintiff prays that judgment be entered in his favor and against defendants, and/or any of them, jointly and severally, for general and special damages exclusive of costs and /or other damages as to which he shall be entitled pursuant to proof adduced at trial, together with costs of suit, attorney's fees, pre-judgment interest, post-judgment interest, and such other and further relief as to which he shall be entitled pursuant to Rule 54(c), Federal Rules of Civil Procedure.

DATED: Wailuku, Maui, Hawaii, _____.

JAMES KRUEGER, ESQ.
Attorney for Plaintiff